

REMARKS

The present Amendment is in response to the Office Action mailed June 16, 2010. Claims 5, 7, 18 and 24 are cancelled, claims 1 and 11 are amended. Claims 1-4, 6, 8-17, 19-23 and 25-30 are now pending in view of the above amendments. Applicants note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. Applicants also note that the remarks presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited reference. Such remarks, or a lack of remarks, are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time. Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks.

PRIOR ART REJECTIONS

Rejection Under 35 U.S.C. § 103

The Office Action rejected claim(s) 1-4, 6-17, 19-21 and 24-30 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,334,379 (*Siegel*) in view of U.S. Patent No. 6,152,364 (*Schoonen*).

The Office Action rejected claim(s) 22 and 23 under 35 U.S.C. § 103(a) as being unpatentable over *Siegel* in view of U.S. Patent No. 6,449,921 (*Kim*).

Applicants traverse the Examiner's rejection for obviousness on the grounds that the references – either individually or in combination – fail to teach or suggest each and every element of the rejected claims.

Claim 1 has been amended to recite that *"if errors occur during the implementation of the tablet filling process for a tablet container, the tablet filling process is stopped and the tablet container is eliminated"*.

The application discloses, by way of example only: *"Each dispensing process is monitored and checked by the hardware of the automatic tablet dispenser. Errors are ... communicated to a superordinate control computer. Control means 60 identifying and eliminating pseudo-blisters 11 which have been filled incorrectly or are defective"* see ¶[0038].

The application furthermore discloses *"After the individual patient orders have been processed, the contents of the filled pseudo-blisters are checked for correctness and completeness by the control means 60, using imaging systems. The results are transferred to a higher-ranked control system and stored along with the client data. In case of a negative result, the pseudo-blister is removed from the material flow and is either inspected manually or recycled, whereby the order is started once again"* ¶¶ [0044]; [0037-38].

These examples illustrate that *"if errors occur during the implementation of the tablet filling process for a tablet container, the tablet filling process is stopped and the tablet container is eliminated."*

These elements of the method avoid any risk for the patient (see ¶[0021]) and contributes to the risk avoiding effect of the plausibility check in claim 1. These elements of claim 1, as arranged in claim 1, are not disclosed by the cited art.

Siegel discloses filling the product package. Immediately after filling, *Siegel* teaches that a bar code on a card on the product package is read so that the card is associated with a particular patient dose. As stated by *Siegel*, swiping a bar code immediately after filling enables the system to precisely know which medications have been inserted into the particular package and thus avoids labeling errors (see col. 6, lls. 20-26, 36-39).

Unfortunately, swiping a bar code does not address the errors that can happen during the implementation of the tablet filling process. In other words, swiping a bar code enables the system to know which medications have been inserted into the

particular package, but does not disclose or account for errors that may occur during the filling process itself.

As previously discussed, claim 1 has been amended to recite that *"if errors occur during the implementation of the tablet filling process for a tablet container, the tablet filling process is stopped and the tablet container is eliminated."* Swiping a bar code after filling does not disclose or suggest this aspect of claim 1. In other words, swiping a bar code does not account for errors occurring during the tablet filling process. Nor does swiping a bar code stop the filling process and eliminate the tablet container as recited in claim 1.

As previously stated, by way of example only, a higher-ranked control system can informed about such errors and tablet containers that have been incorrectly filled can be eliminated. The specification states, for example, that "[p]seudo-blisters in which errors have occurred, which, for example, have been filled incorrectly at the stations, are removed from the material flow and their content is discarded. Subsequently, this order is restarted." See ¶34.

Schoonen discloses a method with a patient card to identify the patient and with signals for the doctor and the pharmacist in case of doubtful prescriptions. *Schoonen* furthermore discloses a method that in case a wrong medicament (box) is selected to be used to fill the package, this medicament (box) is transferred to the pharmacy computer for further action (see col. 8, ll. 60 – col. 9, ll. 42). But *Schoonen* is silent about what happens in such a case or other above explained cases with the tablet container. *Kim* also fails to remedy the deficiencies of *Siegel*.

For at least these reasons, Applicants submit that claim 1 is patentable over the cited art. Claim 11 is patentable for at least the same reasons. The dependent claims rejected under § 103 are patentable for at least the same reasons.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney. In view of the recent USPTO initiative regarding compact prosecution, Applicant respectfully invites the Examiner to contact the undersigned at his earliest convenience in the instance that additional impediment exists to the prompt allowance of this case.

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Respectfully submitted,

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